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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,254	02/05/2007	Susumu Yamaguchi	4600-0120PUS1	6745
2292 7590 08/06/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER WILLIAMS, LEZA				
ART UNIT		PAPER NUMBER		
1787				
NOTIFICATION DATE		DELIVERY MODE		
08/06/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/578,254

Applicant(s)

YAMAGUCHI ET AL.

Examiner

LELA S. WILLIAMS

Art Unit

1787

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 16, 18 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16, 18, 21, 23, 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 1, 2010 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 16, 21, 23, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kortess WO 03/051139.**

Regarding claims 16 and 25, Kortess discloses a vegetable fat/oil composition made of vegetable oil (page 4, lines 11-13) and arachidonic acid. Kortess teaches the arachidonic acid present in at least 10% w/w (page 3, lines 25-27). The reference is also silent to the amount of α -linolenic, therefore the examiner is interpreting the non-disclosure as implying the amount, if any, is less than 5%.

4. **Regarding claim 21,** Kortess discloses the arachidonic acid may be obtained from fungi (page 3, lines 10-20).

Regarding claim 23, Kortes discloses the vegetable oil/Arachidonic acid composition is added to food for flavoring of products, which include meats (page 7, lines 22-25). It is not explicitly disclosed as “improving body taste”; however it will inherently do so.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. **Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kortes WO. 03/051139 in view of Chen et al. US Pat. No. 5,811,149.**

Kortes is applied as disclosed above. The reference is silent regarding the addition of oleic acid and linoleic acid. Chen discloses the affect fatty acids has on flavors (col. 1, lines 25-32 & col. 2, lines 20-25) and a flavoring composition containing 75% oleic acid and 6% linoleic acid (Ex. 6). Given the reference disclosure of flavoring a variety of foods (col. 2, lines 59-65), one of ordinary skill in the art would have been motivated to incorporate said fatty acids into the oil composition of Kortes in order to provide a more distinct flavor.

Response to Amendment

7. Claims 11-15, 17, 19, 20, and 22 have been canceled. Claims 1-10, 16, 18, 21, 23-25 are currently pending. Claims 1-10 and 24 have been withdrawn.
8. The amendment to claims 22 and 23 are sufficient to overcome the claim objections set forth in the previous office action. Therefore the objections have been withdrawn.

9. The amendment to claims 16, 18, 21, 22, and 23 are sufficient to overcome the 35 USC §112, second paragraph rejections set forth in the previous office action. Therefore, the rejections have been withdrawn.

Response to Arguments

10. Applicant's arguments, filed June 1, 2010, with respect to the rejection of claims 16 and 21-23 under Hiroshi JP 10-099048 and claim 18 under Hiroshi in view of Yoshitaka et al JP 4-197134 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of by Kortess WO. 03/051139 and Kortess in view of Chen et al. US Pat. No. 5,811,149. See above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LELA S. WILLIAMS whose telephone number is (571)270-1126. The examiner can normally be reached on Monday to Thursday from 7:30am-5pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LELA S. WILLIAMS
Examiner, Art Unit 1787

/L. S. W. /

/Callie E. Shosho/
Supervisory Patent Examiner, Art Unit 1787